

O I P E
AUG 11 2006
PATENT & TRADEMARK OFFICE

AMENDMENT TRANSMITTAL

PATENT

Application No.: 09/905,524
Filing Date: July 13, 2001
First Named Inventor Hawley K. Rising III
Examiner's Name: Shahid Al Alam
Art Unit: 2162
Attorney Docket No.: 080398.P426

- An Amendment After Final Action (37 CFR 1.116) is attached and applicant(s) request expedited action.
 Charge any fee not covered by any check submitted to Deposit Account No. 02-2666.
 Applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 CFR 1.16 and 1.17, for any concurrent or future reply to Deposit Account No. 02-2666.
 Applicant(s) claim small entity status (37 CFR 1.27).

ATTACHMENTS

- Preliminary Amendment
 Amendment/Response with respect to Office Action
 Amendment/Response After Final Action (37 CFR 1.116) (reminder: consider filing a Notice of Appeal)
 Notice of Appeal
 RCE (Request for Continued Examination)
 Supplemental Declaration
 Terminal Disclaimer (reminder: if executed by an attorney, the attorney must be properly of record)
 Information Disclosure Statement (IDS)
 Copies of IDS citations
 Petition for Extension of Time
 Fee Transmittal Document (that includes a fee calculation based on the type and number of claims)
 Cross-Reference to Related Application(s)
 Certified Copy of Priority Document
 Other: Reply Brief To Examiner's Answer
 Other: _____
 Check(s)
 Postcard (Return Receipt)

SUBMITTED BY:

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(10/14/03)



Atty Docket No. 080398.P426

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:) Examiner: Alam, Shadhid Al
Hawley K. Rising III)
Application No. 09/905,524) Art Unit: 2162
Filed: July 13, 2001) Confirmation No.: 3479
For: A METHOD AND APPARATUS)
FOR PROVIDING MULTIPLE)
LEVELS OF ABSTRACTION IN))
DESCRIPTIONS OF AUDIO-)
VISUAL CONTENT)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY UNDER 37 C.F.R. §41.41

This is an Reply to the Examiner's Answer dated June 7, 2006, which is in response to the Appeal Brief filed by Appellant on March 8, 2006. Appellant is filing this Reply Brief 1) to correct the Examiner's mischaracterization of Appellant's arguments, 2) to point out that the Examiner has misinterpreted Appellant's Background section in the Specification, and 3) to respond to a new interpretation of the Smith reference raised by the Examiner in the Answer.

I. The Examiner has mischaracterized Appellant's arguments

In the Answer, the Examiner asserts that Appellant's first argument is that the Admitted Prior Art does not disclose determining an abstraction level. The Examiner supports this assertion by omitting part of Appellant's argument that he quotes in his

Answer (page 5, lines 5-8). Appellant's argument, when read in full, is that the APA does not teach determining an abstraction level as claimed. Appellant claims determining an abstraction level as a computerized method (claims 1-10), an electronic system (claims 11-21), and a set of executable instructions on a computer-readable medium (claim 22). Thus, Appellant is claiming electronically determining an abstraction level and Appellant's argument is that the APA does not disclose electronically determining an abstraction level. Therefore, the Examiner's rebuttal to Appellant's alleged first argument one is moot because Appellant did not present the argument as quoted by the Examiner.

II. The Examiner has misinterpreted Appellant's Background section

Appellant claims determining a level of abstraction that identifies one of plurality of types of abstraction. Appellant's Background section specifically states that no mechanism exists in the APA "to identify the type of abstraction" (Specification: page 3, lines 2-6, emphasis added). Because the APA does not disclose identifying a type of abstraction for a description, the APA cannot teach or suggest determining a level of abstraction that identifies a type of abstraction. Appellant has previously pointed out to the Examiner that it is improper to interpret the APA as disclosing this claim element because Appellant's own Background section states that the APA does not do so. But the Examiner continues to misinterpret Applicant's Background section so that it supports his arguments.

III. The Examiner's new interpretation of the Smith reference

Throughout the prosecution, the Examiner has asserted that Smith's space and frequency views are abstraction layers that are equivalent to Appellant's claimed abstraction level. Applicant responded this argument in the Appeal Brief. In the Answer, for the first time, the Examiner asserts that levels within an SFPyramid disclosed by Smith are equivalent to Appellant's claimed abstraction types because the SFPyramid levels are associated with different SFViews, i.e., space and frequency views.

However, the levels of the SFPyramid define a hierarchy of display resolutions for the space and frequency views of a piece of content. Thus, Smith discloses that each

level of the SFPyramid corresponds to only the space and frequency view abstraction, SFView. Accordingly, the levels of the SFPyramid in Smith are not equivalent to the plurality of types of abstraction as claimed by Appellant because the SFPyramid levels correspond to only a single abstraction layer.

IV. Conclusion

Appellant respectfully requests the Board strike the Examiner's rebuttal of Appellant's alleged first argument from the record because Appellant did not present that argument. Appellant further respectfully requests the Board correct the Examiner's misinterpretation of the APA because the Examiner has ignored the portions of Appellant's Background section that teach away from his interpretation. Moreover, Appellant respectfully requests the Board find that Smith does not disclose Applicant's claimed plurality of abstraction types because the SFPyramid levels correspond to only a single abstraction layer.

When taken in conjunction with Appellant's Appeal Brief, Appellant respectfully submits that this Reply Brief establishes that the Examiner has failed to state a *prima facie* case of obviousness with regard to claims 1-22. Accordingly, Appellant respectfully requests the Board direct the Examiner to withdraw all rejections under 35 U.S.C. §103(a), and issue a Notice of Allowance for claims 1-22.

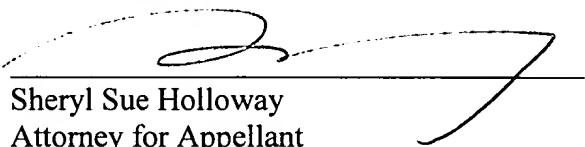
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: August 7, 2006


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